

Federal Housing Finance Board

Memorandum

August 2, 1991

TO: J. Stephen Britt
Executive Director

FROM: Beth L. Climo
General Counsel

SUBJECT: Pricing Limitations On Advances

You have asked us to determine whether there are any statutory limitations on the Federal Housing Finance Board's ("Finance Board's") authority to deviate from the current pricing schedule on advances.

ISSUE:

Are the current pricing constraints on advances a statutory limitation or merely a policy of the Finance Board?

CONCLUSION:

The Federal Home Loan Bank Act ("Bank Act") grants the Finance Board authority and discretion to "approve or determine" the pricing of advances offered by the Federal Home Loan Banks ("FHLBanks"). The current pricing schedule for advances is delineated in the Finance Board's Advances Policy Guidelines.

DISCUSSION:

The FHLBanks advances authority is located in section 10 of the Bank Act, as amended by the Financial Institutions, Reform, Recovery and Enforcement Act of 1989 ("FIRREA").¹ Specifically, subsection 10(c) of the Bank Act states that advances made pursuant to section 10 "shall . . . bear[] such rate of interest as the Board may approve or determined..."² Thus, rather than place

1. Pub. L. No. 101-73, 103 Stat. 183 (August 9, 1989).

2. Subsection 10(c) provides in its entirety:

Such advances shall be made upon the note or obligation of the member secured as provided in this section, bearing such rate of interest as the Board may approve or determine, and the Federal Home Loan Bank shall have a lien upon and shall hold the stock of such member as

specific price constraints on advances, the Bank Act grants the Finance Board the authority and discretion to "approve or determine" the price of advances offered by the FHLBanks.³

The Finance Board's current Advances Policy Guidelines, which originally were adopted by the former Federal Home Loan Bank Board on July 6, 1988, require all FHLBanks to price advances within a range of minimum and maximum markups on the estimated cost of raising consolidated obligations. (See Attachment.) For example, the minimum and maximum markups on advances with a maturity of greater than six months to one year are .20 percent and 1.20 percent, respectively.

Although the Finance Board's advances guidelines establish a schedule of minimum and maximum markups on interest rates, the FHLBanks maintain the discretion to set interest rates on advances, subject to the guidelines. Section 935.2 of the Finance Board's regulations authorizes the board of directors of each FHLBank to set rates of interest on advances to its members within the range established by the Finance Board.' Thus, the markup

(Footnote 2 continued from previous page)

further collateral security for all indebtedness of the member to the Federal Home Loan Bank. At no time shall the aggregate outstanding advances made by any Federal Home Loan Bank to any member exceed twenty times the amounts paid in by such member for outstanding capital stock (sic] held by it exceed twenty times the value of the security required to be deposited under section 6(e).

12 U.S.C.A. § 1430(c) (West Supp. 1990).

3. The Finance Board's use of its authority and discretion to set interest rates on advances, however, must be consistent with its general duties under section 2A(3) of the Bank Act to ensure that the FHLBanks carry out their housing mission in a safe and sound manner, are adequately capitalized and able to raise funds in the capital markets. See 12 U.S.C.A. § 1422a(3) (West Supp. 1990).

4. Section 935.2 provides:

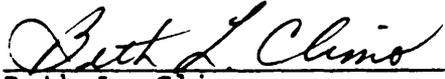
Rates of interest on advances to members shall, within the range established by the Board, be set by the board of directors of each Bank, or between regular meetings of the board, or the Bank President if he is so authorized by the board. Unless the board otherwise specifies, a Bank President may delegate any authority he possesses under this section to any officer or employee of the Bank.

12 C.F.R. § 935.2 (1991).

will vary among the FHLBanks. Furthermore, the advances guidelines allow for temporary deviations from the schedule which arise as a result of interest rate volatility in the money markets provided the FHLBank is and has been conforming to the spirit of the schedule. Finally, the guidelines contain a number of exceptions to the interest rate schedule.

CONCLUSION:

In sum, the Finance Board has the authority and discretion to approve and determine the minimum and maximum interest-rate markup on advances. In order to change the current pricing schedule, the Finance Board must simply revise its current Advance6 Policy Guidelines.



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Attachment